

MEMORANDUM OF LAW

DATE: March 8, 1988

TO: Richard D. Potter, Associate Civil Engineer,
Engineering Division, Water Utilities
Department

FROM: City Attorney

SUBJECT: Correspondence Sought by Coastal Commission

By memorandum of February 10, 1988 you asked if there was any "legal problem" in complying with Special Condition 3. of Coastal Development Permit No. 6-86-651 to supply "all correspondence and agreements" between the City and the U.S. Naval Command at Miramar NAS with respect to sludge relocation.

You are apparently concerned about compromising the negotiations that are ongoing with respect to the relocation of sludge to Miramar. While a referenced release from the Navy is not attached, we need not reach that issue. Rather the California Public Records Act (California Government Code Section 6250 et seq.) clearly contemplates "correspondence and agreements" as public records (Section 6252(d)) and hence such documents upon which you have acted or are basing actions should be produced.

Contrastingly you need not provide preliminary drafts, personal notes or interagency memoranda that are not retained in the ordinary course of your efforts to relocate the sludge drying facilities. California Government Code Section 6254(a). Both the fact that Special Condition 3. does not call for preliminary drafts and personal notes and that such are recognized as exemptions to public records should allay your concern that confidentiality could be jeopardized.

Accordingly we recommend compliance with Special Condition 3. by production of those finalized "correspondence and agreements" that exist and which have formed the basis for governmental activity.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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